

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

WILLIAM C. RODEN, M.D.,

Plaintiff,

v.

THE PAUL REVERE LIFE
INSURANCE COMPANY,

Defendant.

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C.A. No. 1:15-cv-00255

NOTICE OF REMOVAL

Defendant The Paul Revere Life Insurance Company (“Paul Revere” or “Defendant”), for the purpose only of removing this cause to the United States District Court for the Western District of Texas, Austin Division, states:

I. STATE COURT ACTION

On March 6, 2015, Plaintiff William C. Roden, M.D. (“Roden” or “Plaintiff”) filed suit against Paul Revere in the 419th Judicial District Court of Travis County, Texas, where it was numbered D-1-GN-15-000887 on the docket of that court. Roden has asserted claims for breach of contract, violations of Texas Insurance Code, and declaratory judgment. He seeks to recover actual damages, treble damages, attorney’s fees, pre-judgment and post-judgment interest, and costs of court.

II. SUBJECT MATTER JURISDICTION EXISTS

A. Diversity Jurisdiction.

1. The Parties Are Completely Diverse. Roden was a citizen of Texas during the time when substantially all of the events at issue in this lawsuit occurred.

Roden moved to Georgia at the end of 2014/early 2015 and it is believed that he is currently a citizen of Georgia. Paul Revere is a Massachusetts insurance company doing business in Texas with its principal place of business in Worcester, Massachusetts. Paul Revere was a citizen of Massachusetts at the time this action was filed and remains a citizen of Massachusetts as of the date of this removal. Thus, regardless of whether Roden is considered a citizen of Texas or a citizen of Georgia for purposes of removal and jurisdiction, complete diversity of citizenship exists between Roden and Paul Revere.

2. The Requisite Amount in Controversy is Satisfied. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Specifically, Roden alleges in his Original Petition that he seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00, and non-monetary relief in the form of declaratory judgment. *See* Plaintiff's Original Petition at 1. It is therefore clear from Roden's pleading that the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Because the parties are completely diverse and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, the Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

3. The Removal is Timely. The first time that Paul Revere received service of the state court action, through service or otherwise, was on March 10, 2015. As such, the removal is timely under 28 U.S.C. § 1446.

III. REMOVAL IS PROPER

Because the parties are completely diverse and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, the Court has jurisdiction over this action

pursuant to 28 U.S.C. § 1332. Accordingly, this action may be removed pursuant to 28 U.S.C. § 1441. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division. Finally, and as discussed above, removal is timely under 28 U.S.C. § 1446(b).

IV. STATE COURT DOCUMENTS ATTACHED

Attached as Exhibit A is an “Index of State Court Documents,” which includes true and correct copies of the state court docket sheet and all documents filed in the state court action. These documents constitute all of the process, pleadings, or orders filed in state court or served on Paul Revere.

V. RELIEF REQUESTED

Paul Revere respectfully requests that the United States District Court for the Western District of Texas, Austin Division, accept this notice of removal, assume jurisdiction of this cause and issue all orders and processes necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

By: /s/ Dennis M. Lynch
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ATTORNEYS FOR DEFENDANT
THE PAUL REVERE LIFE INSURANCE
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent by certified mail, return receipt requested, to Mr. Jon Michael Smith, 3305 Northland Drive, Suite 500, Austin, Texas 78731, on this the 3rd day of April, 2015.

/s/ Dennis M. Lynch
Dennis M. Lynch